

Manufacturers and graphic arts producers use accumulated MPC by providing the retailer or serviceman with a ST-16-C Manufacturer's Purchase Credit Certificate or by incorporating such certification into the purchase order. See 86 Ill. Adm. Code 130.331(f). (This is a PLR).

March 19, 1999

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (see enclosed), is in response to your representative's letter of January 29, 1999. Review of that request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY, for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither COMPANY, nor a related taxpayer is currently under audit or involved in litigation concerning the issues which are the subjects of this ruling request.

In your letter, you have stated and made inquiry as follows:

**I. REQUEST FOR ILLINOIS PRIVATE LETTER RULING**

The intent of this letter is to request a Private Letter Ruling from the Illinois Department of Revenue ('Department') on behalf of COMPANY, an Illinois registered taxpayer (IBT Number #####).

Specifically, COMPANY requests a private letter ruling on procedures acceptable to the Department for claiming the Illinois Manufacturer's Purchase Credit ('MPC'). COMPANY requests that the Department agree that COMPANY may provide qualifying vendors of production related tangible personal property a 'blanket' exemption certificate claiming a credit from 'state' sales or use tax. Thereafter, COMPANY, would annually provide qualifying vendors with a completed Form ST-16-C. COMPANY would continue to pay all applicable local sales or use tax to its vendors when making such purchases.

**II. CERTIFICATIONS**

All certifications and information required by 2 Ill. Admin. Code Section 1200.110 that are prerequisites to the issuance of a private letter ruling by the Department are included herein.

The Department's ruling will apply to future tax periods.

No audit or litigation is pending with the Department on this issue.

To the best of our knowledge, the Department has not previously ruled on the issue that is a basis for the requested private letter ruling or a similar issue for COMPANY or a predecessor of COMPANY and the same or similar issue has not previously been submitted by COMPANY or its representatives.

To the best of our knowledge, there are no authorities contrary to COMPANY's views.

### **III. APPLICABLE STATUTES, REGULATIONS AND FORMS**

- 35 ILCS 105/3-85
- 35 ILCS 110/3-70
- 35 ILCS 115/9
- 35 ILVS 120/3
- Illinois Regulation, Section 130.331
- Form ST-16 – *Annual Report of Manufacturer s Purchase Credit Earned*
- Form ST-16-C *Manufacturer s Purchase Credit Certificate*
- Form ST-17 – *Annual Report of Manufacturer s Purchase Credit Used*
- Form ST-18 *Retailer s Credit Report*

### **IV. FACTS**

#### **A. *Qualifying for the MPC***

To qualify for the MPC, COMPANY must purchase manufacturing machinery and equipment that qualifies for the existing tax exemption. COMPANY must apply for the MPC in accordance with 35 ILCS 105/3-85 and 110/3-70. The MPC is then applied against state sales/use tax obligations on subsequent purchases of tangible personal property that is used or consumed in a production related process by a manufacturer in a manufacturing facility or by a manufacturer in research and development as interpreted by Illinois Regulation, Section 130.331(b)(3), (4) and (5).

#### **B. *Current Requirements***

COMPANY currently files MPC applications in accordance with 35 ILCS 105/3-85 and 110/3-70, to claim the MPC that it uses to satisfy its state sales/use tax obligations on subsequent purchases of production related tangible personal property.

COMPANY must complete and file Form ST-16, *Annual Report of Manufacturer s Purchase Credit Earned*, no later than June 30 of the year following the calendar year in which it earned the MPC. On Form ST-16 COMPANY is required to provide the Department for each month:

- the total purchase price paid for all purchases on which credit was earned;

- the amount of tax that would have been due;
- the percentage appropriate for the purchase date; and,
- the amount of the credit earned.

COMPANY is also required to maintain records as to each purchase of qualifying manufacturing machinery and equipment on which COMPANY earned the MPC showing:

- the vendor (including either the Illinois Business Tax (IBT) number or the Federal Employer Identification Number (FEIN));
- the date of purchase;
- the purchase price;
- the description of the exempt manufacturing machinery and equipment; and,
- the amount of MPC earned on the purchase.

COMPANY applies the MPC against its state sales and use tax obligations that result from (subsequent) purchases of qualifying production related tangible personal property. Locally imposed sales and use taxes continue to be paid by COMPANY.

As required, COMPANY completes and provides each vendor with the completed upper portion of Form ST-16-C, *Manufacturer's Purchase Credit Certificate*. The upper portion of the form contains:

- COMPANY's name and address;
- date of purchase;
- COMPANY's IBT number
- the taxable selling price of the purchase;
- sales or use tax due;
- amount of credit being used;
- remaining tax due; and,
- the signature of an authorized COMPANY representative certifying that COMPANY has an MPC sufficient to cover all or part of the 6.25 percent Illinois state sales or use tax liability against which it is applying the credit.

COMPANY retains the lower portion of Form ST-16-C which contains:

- date of the purchase;
- seller's IBT number;
- the taxable selling price of the purchase;
- sales or use tax due;
- amount of credit being used; and,
- the remaining tax due.

COMPANY is also required to complete and file Form ST-17, *Annual Report of Manufacturer's Purchase Credit Used*, no later than June 30 of the year following the calendar year in which the credit was used. On Form ST-17, COMPANY is required to maintain and provide the Department the following information:

- the total purchase price of all production related tangible personal property purchased from COMPANY's vendors;
- the total purchase price of all production related tangible personal property purchased from out-of-state vendors;
- the total taxable purchase price; and,
- the total amount of MPC used during each month.

COMPANY is also required to maintain records as to each purchase of production related tangible personal property on which COMPANY used the MPC showing:

- the vendor (including either the Illinois Business Tax (IBT) number or the Federal Employer Identification Number (FEIN));
- the date of purchase
- the purchase price;
- the description of the exempt manufacturing machinery and equipment; and,
- the amount of MPC used on the purchase.

### **C. *Prior Requirements***

Originally, the Department required the filing of Forms ST-16 and ST-17 no later than the last day of the second month following the month in which purchases were made and the credit used. The forms also required purchase-by-purchase reporting. However, due to statutory/regulatory amendments, the Department now requires an annual filing of the purchases made and the credit used based upon monthly lump sum reporting.

### **D. *Surplus***

COMPANY has completed and filed the required forms for claiming the MPC in the past and has continually produced a surplus credit.

## **V. PROPOSAL**

### **A. *Summary***

COMPANY would continue to file Forms ST-16 and ST-17 with the Department. However, COMPANY urges the Department to agree that COMPANY may simplify the Department's MPC process by allowing COMPANY to provide individual vendors a 'blanket' exemption certificate advising qualifying vendors that only the local sales or use taxes are due on qualifying purchases and, should any state sales or use tax be

due, COMPANY will remit it directly to the Department. Further, COMPANY would continue to provide qualifying vendors a completed Form ST-16-C on an annual basis. COMPANY requests that the Department rule that the proposed procedure is an acceptable means for COMPANY to utilize its MPC.

## **B. Analysis**

COMPANY asserts that the utilization of a 'blanket' exemption certificate is a more efficient means of utilizing its MPC. Rather than 1) presenting a Form ST-16-C to qualifying vendors at the time of each purchase or 2) paying state taxes on each of its purchases and then requesting a refund or credit of the state sales/use taxes paid, COMPANY would present one 'blanket' exemption certificate to each vendor and pay the locally imposed sales and use taxes to its vendors at the time of purchase. If tangible personal property did not qualify as production related tangible personal property, COMPANY would pay the tax to the Department. COMPANY would continue to pay the local sales or use tax due directly to the vendor.

COMPANY proposes to submit a 'blanket' exemption certificate to each vendor containing the information currently provided in the Form ST-16-C including COMPANY's name, IBT number and signature certifying that it has a MPC sufficient to cover all of the 6.25 percent Illinois sales tax liability against which it is applying the credit. (Sample enclosed)

COMPANY would provide each vendor with Form ST-16-C on an annual basis, which will include the amount of MPC used to satisfy the state sales/use tax. (Sample enclosed) COMPANY would record the vendor's IBT number and maintain records required by statute, showing the date of purchase, the purchase price paid, the amount of tax that would have been due had the items not been exempt, the percentage appropriate for the purchase date and the amount of the credit.

Alternatively, if the Department agreed, in place of submitting an annual Form ST-16-C to individual vendors, COMPANY would become completely responsible for the tracking of purchases of production related tangible personal property and the application of the MPC. This would avoid the necessity of providing the Form ST-16-C to the individual vendors and simplify the process even further. By providing a 'blanket' exemption certificate to individual vendors, the vendors would only be responsible for maintaining sufficient records to confirm its entitlement to the use of the claimed MPC.

## **C. Benefits**

### **1. Time Savings and Simplification**

Allowing COMPANY to provide a 'blanket' exemption certificate would significantly decrease the amount of time and paperwork attributed to COMPANY's applying for and receiving the MPC to which it is entitled. Allowing COMPANY to provide a 'blanket'

exemption certificate to qualifying vendors, vendors will also significantly decrease the time and paperwork devoted to MPC requests. Vendors would no longer have to file Form ST-18 *Retailer's Credit Report*. Further, accounting systems could be simplified and fewer errors would likely occur.

Another benefit of COMPANY's proposed procedure is an increase in the ease and convenience of conducting state tax audits. COMPANY is currently audited on a regular basis, as are many of its vendors. State auditors must spend a significant amount of time tracing purchases to each vendor and then to the Forms ST-16, ST-17 and ST-18 which are submitted to the state. However, if COMPANY is allowed to use a 'blanket' exemption certificate and furnish qualifying vendors with an annual ST-16-C or simply maintain all required information, state auditors would be required to review only COMPANY's records to confirm that any tax due had been paid to the state. This would eliminate the need to cross-reference COMPANY's and its vendor's records ensuring that neither party failed to pay any tax due. Additionally, all necessary records would be available for the auditor's review at a single location.

This process will also provide additional ease and convenience when auditing vendors holding Form ST-16-C. The auditor will have to examine only the exemption form rather than track the upper portions of Form ST-16-C. This procedure will likely minimize the number of errors that may occur.

## 2. No Risk of Lost Tax Revenue

COMPANY has historically had a surplus MPC for each year. Continued surplus of MPC assures that COMPANY will have a sufficient MPC to satisfy the 6.25 percent Illinois sales and use tax. Further, COMPANY would pay any locally imposed sales and use taxes directly to vendors at the time of purchase. Therefore, eliminating the risk that local sales and use taxes would not be paid.

## VI. CONCLUSION

We respectfully request that the Department rule that COMPANY may present a 'blanket' exemption certificate to its vendors claiming that no state tax is due. Also, that COMPANY may provide its vendors with a 'blanket' exemption certificate and an annual Form ST-16-C to utilize the MPC to which it is entitled.

If the Department intends to issue an unfavorable ruling, COMPANY request it be given notice of such intent and an opportunity to provide additional information, clarification or arguments as necessary to persuade the Department to rule in its favor.

If you have any questions regarding this request, please feel free to contact PERSON at ####.

Due to the information required to be contained within the MPC certifications, it is necessary that the certifications be given for each purchase order. Therefore we are unable to grant your request for use of a "blanket" MPC certification.

Manufacturers and graphic arts producers use accumulated MPC by providing the retailer or serviceman with a ST-16-C Manufacturer's Purchase Credit Certificate or by incorporating such certification into the purchase order. See 86 Ill. Adm. Code 130.331(f), enclosed.

In order to accept Manufacturer's Purchase Credit ("MPC") from manufacturers, suppliers or servicemen must obtain MPC certificates from the manufacturers unless the manufacturers have incorporated their certification into their purchase orders as described below. The manufacturers may provide the certifications on forms provided by the Department or on the manufacturers' own form containing the appropriate information. The certificates must be kept in the suppliers' or servicemen's books and records, but need not be submitted to the Department with the suppliers' or servicemen's return. See 35 ILCS 105/3-85. An MPC certificate must contain the following information:

- A) A signed statement that the manufacturer is using available accumulated Manufacturer's Purchase Credit to satisfy all or part of the 6.25% portion of Use Tax or Service Use Tax liability incurred on a qualifying purchase of production related tangible personal property;
- B) The manufacturer's name and address;
- C) The manufacturer's registration number, if registered;
- D) The date of purchase of the production related tangible personal property; and
- E) The credit being used. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

As stated above, manufacturers may incorporate MPC certifications into their purchase orders if all the required information is contained within the purchase order.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules, or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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